IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 803 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT

Versus

KATHI LAGHUBHAI MANABHAI

Appearance:

1. Criminal Appeal No. 803 of 1992

MR ND GOHIL, ADDL.PUBLIC PROSECUTOR for Petitioner No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 24/07/2001

ORAL JUDGEMENT

Regarding the incident which took place at 12.00 noon on 4.2.1992, the respondents accused aged 50, 21 and 18 respectively at that relevant point of time, they were charge-sheeted by the Police for the offence under Sections 324, 323, 504 and 114 IPC before the Court of JMFC, Sayala. They were acquitted by the learned Magistrate by his impugned order dated 16.6.1992, in exercise of his powers under Section 256 Cr.P.C. According to him, though the case was adjourned on number of occasions, prosecution failed to keep any witness

present. The said order of acquittal was challenged by the State by way of this appeal in 1992 itself. When this matter was placed on 7.12.1992 before this Corut for admission, leave was granted and appeal admitted against the order of acquittal passed by the trial Court and the appeal was expedited. Unfortunately, though the appeal was expedited, it could not be heard till today i.e. for the period of almost 9 years from the date of admission.

If the appeal had come up for early hearing immediately after its admission and service to the respondent accused, then this Court would have certainly interfered with the impugned order of acquittal, but the fact that almost 9 years period has passed by now after the commission of offence and the admission of the matter and that no one appears for the respondents accused though served, looking to the age of the accused at the time of commission of the offence, I am of the opinion that though the learned Magistrate dismissed the case in a hasty manner, this Court should not now interfere after a lapse of more than 9 years. In view of the above discussion, having regard to the peculiar facts and circumstances of the case, now I am not inclined to interfere with the order of acquittal passed by the learned Magistrate in this appeal.

In view of the above discussion, this appeal fails and is dismissed.

(B.J.Shethna, J.)

*/Mohandas